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HENRY A. WAXMAN, CALIFORNIA
RANKING MEMBER

ONE HUNDRED TWELFTH CONGRESS
Congress of the United States
House of Representatives
COMMITTEE ON ENERGY AND COMMERCE
2125 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6115

Majority (202) 225-2927
Minority (202) 225-3641

February 24, 2011

The Honorable Steven Chu
Secretary
U.S. Department of Energy
1000 Independence Avenue, S.W.
Washington, D.C. 20585

Dear Mr. Secretary:

We in Congress have a duty to follow progress on the laws we write and to change them where improvement is needed. In the case of the Nuclear Waste Policy Act (the Act) we have extra obligations: a fiduciary duty to consumers who, under the Act, have paid billions of dollars into the Waste Fund only—so far—to receive nothing in return; and a moral obligation to stop the flow of taxpayer dollars from the U.S. Treasury to pay damages to plant operators whose contracts with the Department of Energy (the Department) to transfer possession of nuclear waste material are breached.

To help us carry out these duties, please respond to the following questions and requests for information within fourteen days of the date of this letter.

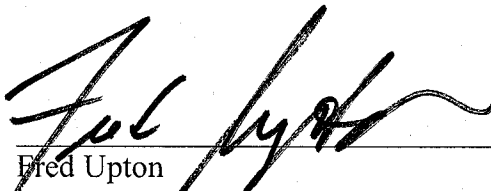
1. Do you agree that it is the responsibility of the United States Government, and the legal obligation of the Department of Energy, to take the steps necessary to accept nuclear waste from civilian generators?
2. Do you consider Yucca Mountain to be a geologically safe site for disposal of nuclear waste? After more than twenty years of the Department's work characterizing and preparing the site, and with a multi-agency record replete with validations that the site is geologically suitable for its statutory purpose, do you have information that it is not safe?
3. The Act directly establishes an Office of Civilian Radioactive Waste Management but you appear to have disbanded it. What is your specific legal authority to disband the Office in spite of its statutory establishment?

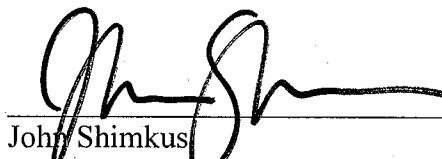
4. Do you agree that the Act requires the Department to file a license application for the Yucca Mountain Project? Do you understand that the duty to file, which was met by your predecessor, cannot continue to be met by withdrawing the application?
5. What is the total amount of damages in dollars paid to date to generating plant operators due to the Department's contractual failure to accept the high level waste?
6. What is the potential future legal and financial liability exposure for the U.S. if we have no Departmental facility to accept the waste? Please break down your projections by year. Please supply the Committee with all Departmental assessments and back-up analysis. Also, if you are aware of such assessments by any other office in the U.S. Government, or elsewhere, please list those.

It would be difficult to draft legislation to make the Act more plain, specific, and mandatory than it already is. However, all three of these problems must be solved: the establishment of a permanent facility for accepting high level waste; the consumers paying out billions of dollars and receiving nothing in return; and the Treasury paying out billions of dollars in damages with no real end in sight due to the Department's failure to meet its obligations.

We appreciate your prompt attention to this request. Should you have any questions, you may contact David McCarthy of the Majority Committee staff at (202) 225-2927.

Sincerely,



Fred Upton
Chairman

John Shimkus
Chairman
Subcommittee on Environment and the Economy

cc: The Honorable Henry A. Waxman, Ranking Member

The Honorable Gene Green, Ranking Member
Subcommittee on Environment and the Economy